

ASSEMBLY BILL

No. 1375

Introduced by Assembly Member Nation

February 22, 2005

An act to add Section 23184 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1375, as introduced, Nation. Corporation Tax Law: tax surcharge: credit issuer.

The Corporation Tax Law imposes an annual tax, measured by net income, as specified, on every bank and financial corporation, not otherwise exempted from taxation and doing business in this state, and in the case of a business with income derived from or attributable to sources both within and without this state, the business income is apportioned between this state and other jurisdictions for tax purposes in accordance with a specified formula based on the property, payroll, and sales of the business within and without this state.

This bill would impose an additional tax at a rate of 2.5% on a specified bank or financial corporation that is engaged in the business of extending credit to California consumers on terms that are inequitable to the consumers, specifically, a special provision in the consumer credit agreements that allows for an increase of the interest rate, after the loan has been issued, by any amount that is greater than the increase in the cost of the funds necessary to extend additional credit to the consumer, as specified.

This bill would also declare the intent of the Legislature to ensure that any revenue generated by the surcharge tax imposed under this act be used for purposes of educating consumers regarding predatory lending practices.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Consumer Protection and Anti-Interest Rate Manipulation Act.

3 SEC. 2. The Legislature finds and declares all of the
4 following:

5 (a) In compliance with federal law, the State of California
6 established an equitable system of taxation of banks and financial
7 corporations doing business in this state.

8 (b) It is evident that certain segments of the consumer lending
9 industry have begun adding terms to their consumer credit
10 agreements that are inequitable to borrowers.

11 (c) The Legislature has determined that it would be in the best
12 interest of this state to impose a tax surcharge on banks and other
13 businesses that extend consumer credit to California residents on
14 terms that are inequitable to the consumers and has further
15 determined that any proceeds from these surcharges should be
16 used to promote consumer education about consumer credit.

17 SEC. 3. Section 23184 is added to the Revenue and Taxation
18 Code, to read:

19 23184. (a) For each taxable year beginning on or after
20 January 1, 2006, in addition to any tax imposed under Part 11
21 (commencing with Section 23001) of Division 2, an annual
22 surcharge tax at a rate of 2.5 percent is hereby imposed on every
23 bank or financial corporation as described in subdivision (b),
24 according to, or measured by, its net income.

25 (b) For purposes of this section, “a bank or a financial
26 corporation” means a bank, a financial corporation, or a
27 corporation that satisfies all of the following:

28 (1) Is doing business in this state.

1 (2) Is engaged in the business of extending credit, including
2 consumer credit, to California residents.

3 (3) (A) Includes a provision in its consumer credit agreements
4 that allows for an increase of the interest rate, after the loan has
5 been issued, by any amount that is greater than the increase in the
6 cost of the funds necessary to extend additional credit to the
7 consumer.

8 (B) For purposes of this paragraph, “cost of the funds” is
9 determined by the prime rate.

10 SEC. 4. It is the intent of the Legislature to ensure that any
11 revenue generated by the surcharge tax imposed under this act be
12 used for purposes of educating consumers regarding predatory
13 lending practices.

14 SEC. 5. This act provides for a tax levy within the meaning of
15 Article IV of the Constitution and shall go into immediate effect.